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Federal Communications Commission
Office of Secretary

July 28, 2003

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WRITER'S DIRECT DIAL

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

ATTN: Shannon Lipp
Wireline Competition Bureau

Re: CC Docket No. 96-45
Louisiana Unwired, LLC
Petition for Designation as an ETC in the State of Alabama

Dear Madam Secretary:

We write in response to your request for additional information regarding the petition of Louisiana Unwired, LLC ("LUL") for designation as an eligible telecommunications carrier ("ETC") in the State of Alabama pursuant to 47 U.S.C. § 214(e)(6). Specifically, you requested information to confirm that the State of Alabama does not have jurisdiction over competitive eligible telecommunications carriers in Alabama.

As a CMRS carrier, LUL is entitled to seek designation as an ETC.¹ Section 254(e) of Act, 47 U.S.C. § 254(e), provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support." 47 U.S.C. § 214(e). Pursuant to 47 U.S.C. § 214(e)(6), the Commission may, upon request, designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission."

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¹ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *First Report and Order*, 12 FCC Rcd 8776, 8858-59 (1997) ("First Report and Order").

Marlene H. Dortch, Secretary
July 28, 2003
Page 2


In the *Section 214(e)(6) Public Notice*, the Commission established that a carrier must demonstrate it "is not subject to the jurisdiction of a state commission."² In its *Twelfth Report and Order* in this docket, the Commission stated that where a carrier provides the Commission with an "affirmative statement" from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation, the Commission would consider requests filed pursuant to 214(e)(6).³

On March 12, 2002, the Alabama Public Service Commission ("PSC") issued an Order which determined that the Alabama PSC does not have jurisdiction over CMRS carriers. The Order, a copy of which is attached hereto, stated, "the APSC has no authority to regulate in any respect cellular services, broadband personal communications services and commercial mobile radio services in Alabama." The PSC has clearly indicated it does not intend to designate CMRS carriers as ETCs. Accordingly, LUL requests ETC designation as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission." 47 U.S.C. §214(e)(6).

We appreciate the opportunity to present this supplemental information. Should you have any questions or require any additional information, please contact undersigned counsel directly.

Respectfully submitted,

Louisiana Unwired, LLC

By: 
David LaFuria
B. Lynn F. Ratnavale
Its Counsel

Enclosure

cc: Eric Einhorn, Esq.
Shannon Lipp, Esq.

² *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, Public Notice*, 12 FCC Rcd 22947, 22948 (1997).

³ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, 12264 (2000).